

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

VINCENT MARVIN LOPEZ,

Plaintiff,

v.

OFFICER NICHOLS,

Defendant.

No. C 05-4888 MMC (PR)

ORDER OF TRANSFER

(Docket No. 2)

Plaintiff, a prisoner incarcerated at the California State Prison, Corcoran, California (“Corcoran”) and proceeding pro se, filed the above-titled civil action, alleging that a Corcoran prison guard has violated his constitutional rights.

Venue may be raised by the district court sua sponte where the defendant has not filed a responsive pleading and the time for doing so has not run. See Costlow v. Weeks, 790 F.2d 1486, 1488 (9th Cir. 1986). When jurisdiction is not founded solely on diversity, venue is proper in (1) the district in which any defendant resides, if all of the defendants reside in the same state; (2) the district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of the property that is the subject of the action is situated; or (3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought. See 28 U.S.C. § 1391(b). When venue is improper, the district court has the discretion to either dismiss the case or transfer it "in the

1 interest of justice." See 28 U.S.C. § 1406(a).

2 It is clear from the complaint and the attachments thereto that plaintiff's claims all arise
3 out of actions alleged to have been committed at Corcoran by an individual employed at
4 Corcoran. Corcoran is located in Kings County, which, in turn, is within the venue of the
5 Eastern District of California. See 28 U.S.C. § 84(b).


6 Accordingly, in the interest of justice, the above-titled action is hereby
7 TRANSFERRED to the United States District Court for the Eastern District of California. In
8 light of the transfer, this Court will defer to the Eastern District with respect to plaintiff's
9 application to proceed in forma pauperis.

10 This order terminates Docket No. 2.

11 The Clerk shall close the file.

12 IT IS SO ORDERED.

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14 DATED: December 21, 2005

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16 MAXINE M. CHESNEY
17 United States District Judge
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